

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 100 of 1987
to
FIRST APPEAL NO.114 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIJAN DEVA KALA

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Appellants in all First Appeals
MR SJ DAVE, AGP for Respondent no.1 in First Appeal
Nos. 100/87 to 106/87
MS HANSA DEVANI, AGP for Respondent No.1 in First
Appeal Nos. 107/87 to 114/87.

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 23/03/98

ORAL COMMON JUDGEMENT (PER : Y.B.BHATT, J)

This group of appeals arises under Sec.54 of the

Land Acq. Act read with Sec.96 of the C.P.Code wherein the appellants- original claimants land-holders challeng the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

2. The lands were acquired under notification under Sec.4 of the said Act published on 23.8.1979 and the award was declared by the Land Acq. Officer on 24.9.1981.

3. The appellant seeks to press the appeal mainly on the ground that the market value as determined by the Reference Court is inadequate and the same requires to be enhanced.

4. In this context, suffice it to say that this Bench has decided earlier a group of first appeals namely First Appeal Nos. 467/86 to 511/86 by our judgment and order dated 18/19.3.1998 (hereinafter referred to as the said decision). Further more, the lands concerned in the present case as also in the aforesaid decision were both acquired for the same project and they are located in the very same village namely Rajavad, T: Morbi, Dist.: Rajkot. There is no significant difference between the date of the notification under Sec.4 of the said Act.

5. We may also observe that the State had also filed first appeals challenging the very same common judgment and awards by filing First Appeal Nos. 571/86 to 585/86 for reducing the amount of compensation which, however, came to be dismissed by the Division Bench (Coram: M.B.Shah & R.A.Mehta, JJ) by its judgment and order dated 20.4.1986. On the basis of these facts and circumstances, the ld. counsel for the respective parties agree that our judgment and order in the said decision would govern the determination of the market value in respect of the lands with which we are concerned in the present group of appeals.

6. Accordingly, the market value of the acquired lands in the present group of appeals is determined at Rs.110/ per Are for Jirayat land and at Rs. 140/ per Are for Bagayat land, thus confirming the awards of the Reference Court on this limited aspect of market value.

7. However, some incidental points raised by the ld. counsel for the appellant require to be considered by us.

8. It was first contended by the ld. counsel for the appellant that the original claimants are entitled to an additional amount of compensation at the rate of 12% of the market value in view of Sec.23(1-A) of the said

Act. However, this contention is now no longer open on the facts of the case and is concluded by number of decisions of the Supreme Court, one of which is the decision in the case of State of Kerala v/s Ebrahim Mathew & Others, reported at (1996)7 SCC Page 174. This contention is, therefore, rejected.

9. Another contention raised on behalf of the claimants is to the effect that they would be entitled to solatium at the rate of 30% not merely on the enhanced amount as directed by the Reference Court, but on the entire amount of compensation. This contention, obviously, requires to be accepted. Accordingly, the claimants shall be so entitled.

10. A further contention which also requires to be allowed is in respect of interest on the compensation as contemplated by Sec.28 of the said Act. Since there is no controversy on this issue, we hold that the appellants-claimants shall also be entitled to the interest at the rate of 9% p.a. from the date of handing over possession for the first year and thereafter at the rate of 15% p.a. till the date of payment or deposit.

11. No other points are urged.

12. These appeals are, therefore, partly allowed to the aforesaid extent with no orders as to cost. Decree accordingly.

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